

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Martin J. WENSLEY et al.	)	Examiner: D. P. Erez
	)	
Application No.: 10/057,197	)	Group Art Unit: 3773
	)	
Filed: October 26, 2001	)	Confirmation No.: 1701
	)	
For: AEROSOL GENERATING	)	
METHOD AND DEVICE	)	
	)	

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**TERMINAL DISCLAIMER TO OBVIATE PROVISIONAL DOUBLE  
PATENTING REJECTIONS OVER "PRIOR" PATENTS**

The owner, Alexza Pharmaceuticals, Inc., of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of **prior patent** Nos. 6,716,415 issued 4/6/2004; 6,716,416 issued 4/6/2004; 6,716,417 issued 4/6/2004; 6,737,042 issued 5/18/2004; 6,737,043 issued 5/18/2004; 6,740,307 issued 5/25/2004; 6,740,308 issued 5/25/2004; 6,740,309 issued 5/25/2004; 6,743,415 issued 6/1/2004; 6,759,029 issued 7/6/2004; 6,776,978 issued 8/17/2004; 6,780,399 issued 8/24/2004; 6,780,400 issued 8/24/2004; 6,783,753 issued 8/31/2004; 6,803,031 issued 10/12/2004; 6,805,853 issued 10/19/2004; 6,805,854 issued 10/19/2004; 6,814,954 issued 11/9/2004;

6,814,955 issued 11/9/2004; 6,855,310 issued 2/15/2005; 6,884,408 issued 4/26/2005;  
6,994,843 issued 2/7/2006; 7,005,121 issued 2/28/2006; 7,005,122 issued 2/28/2006; 7,008,615  
issued 3/7/2006; 7,008,616 issued 3/7/2006; 7,011,819 issued 3/14/2006; 7,011,820 issued  
3/14/2006; 7,014,840 issued 3/21/2006; 7,014,841 issued 3/21/2006; 7,018,619 issued  
3/28/2006; 7,018,620 issued 3/28/2006; 7,018,621 issued 3/28/2006; 7,022,312 issued 4/4/2006;  
7,029,658 issued 4/18/2006; 7,033,575 issued 4/25/2006; 7,045,118 issued 5/16/2006; 7,045,119  
issued 5/16/2006; 7,048,909 issued 5/23/2006; 7,052,679 issued 5/30/2006; 7,052,680 issued  
5/30/2006; 7,060,254 issued 6/13/2006; 7,060,255 issued 6/13/2006; 7,063,830 issued  
6/20/2006; 7,063,831 issued 6/20/2006; 7,063,832 issued 6/20/2006; 7,067,114 issued  
6/27/2006; 7,070,761 issued 7/4/2006; 7,070,762 issued 7/4/2006; 7,070,763 issued 7/4/2006;  
7,070,764 issued 7/4 /2006; 7,070,765 issued 7/4/2006; 7,070,766 issued 7/4/2006; 7,078,016  
issued 7/18/2006; 7,078,017 issued 7/18/2006; 7,078,018 issued 7/18/2006; 7,078,019 issued  
7/18/2006; 7,078,020 issued 7/18/2006; 7,087,216 issued 8/8 /2006; 7,087,217 issued 8/8 /2006;  
7,087,218 issued 8/8/2006; 7,090,830 issued 8/15/2006; 7,094,392 issued 8/22/2006; 7,108,847  
issued 9/19/2006; 7,115,250 issued 10/3 /2006; 7,169,378 issued 1/30/2007; 7,442,368 issued  
10/28/2008; 7,449,172 issued 11/11/2008; 7,449,173 issued 11/11/2008; 7,449,174 issued  
11/11/2008; 7,449,175 issued 11/11/2008; 7,465,436 issued 12/16/2008; 7,465,437 issued  
12/16/2008; and 7,470,421 issued 12/30/2008 (each hereinafter a “**prior patent**”), as such term  
is defined in 35 U.S.C. § 154 and 173, and as presently shortened by any terminal disclaimer.

The owner hereby agrees that any patent so granted on the instant application shall be  
enforceable only for and during such period that it and the **prior patent** are commonly owned.  
This agreement runs with any patent granted on the instant application and is binding upon the  
grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term  
of any patent granted on the instant application that would extend to the expiration date of the

full statutory term as defined in 35 U.S.C. § 154 and 173 of the **prior patent**, “as the term of said **prior patent** is presently shortened by any terminal disclaimer,” in the event that said **prior patent** later expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney of record.

The undersigned hereby authorizes the charge of the terminal disclaimer fee of \$70.00 or any deficiency of fees to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date December 24, 2008

/Katherine Lobel-Rice/  
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